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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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12 ROBERT E. HARWELL, JR.,

13 Plaintiff,

No. CIV. S-04-0534-LKK-PAN

14 vs.

15 JO ANNE B. BARNHART,
16 Commissioner of Social
Security,

ORDER

17 Defendant.
18 _____/

19 This matter is before the court on plaintiff's motion for
20 judgment and defendant's cross-motion for judgment. These motions
21 were referred to the Honorable Peter A. Nowinski, United States
22 Magistrate Judge, pursuant to 28 U.S.C. §§ 636, et seq., and Local
23 Rule 72-302. On May 12, 2005, Judge Nowinski filed findings and
24 recommendation which were served on all parties and objections were
25 to be filed within ten days after service. On May 20, 2005,
26 defendant filed objections to the findings and recommendation and

1 on May 31, 2005, plaintiff filed a response to defendant's
2 objections.

3 The court has reviewed the file and finds the findings
4 and recommendation to be supported by the record and by the
5 magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED
6 that:

7 1. The Findings and Recommendation filed May 12, 2005, are
8 adopted in full;

9 2. Plaintiff's motion for summary judgment or remand is
10 granted; and

11 3. Defendant's cross-motion for summary judgment is denied.

12 DATED: August 15, 2005.

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14 /s/Lawrence K. Karlton
15 UNITED STATES DISTRICT JUDGE
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